

**BEFORE THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

**In the Matter of:**

**Abaco Moving & Storage Corp.  
dba Lonestar Relocation Services,**

**Respondent.**

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)  
) **Docket No. FMCSA-2009-0181**  
) **CA-2009-0480-US1164**  
) **(Western Service Center)**  
)  
)  
)

DEPT OF TRANSPORTATION  
DOCKETS

**FIELD ADMINISTRATOR'S NOTICE OF OBJECTION TO RESPONDENT'S  
REQUEST FOR FORMAL HEARING**

COMES NOW, the Field Administrator for the U.S. Department of Transportation, Federal Motor Carrier Safety Administration ("FMCSA"), Western Service Center by and through the undersigned, and hereby objects to Respondent's request for formal hearing. In support thereof, the Field Administrator states as follows:

**I. Procedural History**

1. The above-captioned civil penalty proceeding was commenced through the issuance of a Notice of Claim pursuant to 49 C.F.R. Part 386 which included a Statement of Charges detailing the violations of Federal statute and regulations, including the Federal Motor Carrier Commercial Regulations (FMCCRs) discovered during a compliance review completed on or about April 1, 2009. The Notice of Claim charged Abaco Moving & Storage Corp dba Lonestar Relocation Services ("Abaco" or "Respondent") with one violation of 49 C.F.R. § 375.207(a), providing false, misleading,

or deceptive information in advertisements. The Notice of Claim asserts a total civil penalty of \$2,000 for the charged violation. A copy of the Notice of Claim served April 9, 2009 is attached hereto and identified as Attachment A.

2. On May 8, 2009 Respondent's representative served his Notice of Representation and request for copies of evidence. A copy of the Notice of Representation is attached hereto and identified as Attachment B. A copy of the request for copies of evidence is attached hereto and identified as Attachment C. The office of the Field Administrator served copies of evidence collected during the investigation on May 18, 2009. A copy of the Field Administrator's correspondence transmitting copies of evidence collected during the investigation, without attachments and enclosures, is attached hereto and identified as Attachment D.

3. Respondent, through its consultant representative, timely served its reply to the Notice of Claim. In its reply Respondent denies the charged violation and requests administrative adjudication in the form of a formal hearing. A copy of the reply is attached hereto and identified as Attachment E.

## **II. Objection with Basis**

4. The Rules of Practice limit the opportunity for a hearing by requiring, at 49 C.F.R. § 386.16(b), the Assistant Administrator determine whether there exists any material fact in dispute before setting a case for hearing.

**5. Violation of 49 C.F.R. § 375.207 – Providing false, misleading, or deceptive information in advertisements.**

In its reply, Respondent denies the charged violation claiming “Respondent did not commit the violation. The respondent does not subcontract to other carriers, but like major van lines the respondent use agents to complete their jobs.”; b)” the respondent does have their own storage facilities.”; c) “the respondent either use their own or leased equipment that is under the carrier control. The fact that the carrier leased, rent or own the equipment is irrelevant as long as the equipment is in the carrier control.”

Respondent does not address the allegations that its websites used for advertisement state that Respondent has more than 30 years combined experience, or that the websites indicate the U.S. DOT approves or endorses its custom tariff or that the websites indicate Respondent is a member of the Better Business Bureau.

Pursuant to 49 C.F.R. § 375.207(a), a household goods motor carrier and its agent must publish and use only truthful, straightforward, and honest advertisements. The Field Administrator’s evidence establishing a *prima facie* for the charged violation includes documentation from Respondent’s websites used for advertisement which include false and misleading information indicating including that 1) the company’s custom tariff is endorsed by the U.S. DOT; 2) the company does not subcontract moving jobs; 3) the company has over 30 years of combined experience; 4) the company owns its own trucks and storage facilities; and 5) the company is a member of the Better Business Bureau. During the review the investigator documented that the U.S. DOT does not endorse household goods moving company tariffs, Respondent uses interliners and agents for household moving jobs, Respondent does not have over 30 years of combined

experience; Respondent uses trucks leased from Budget Truck Rental and does not have its own storage facility; and Respondent is not a member of the Better Business Bureau.

6. The Field Administrator's evidence also includes documentation supporting the penalty calculation and consideration of applicable statutory factors.

7. The Field Administrator believes there are no material factual dispute warranting a hearing and that this matter may be decided on the written record; the Field Administrator will file an appropriate motion for final order in this matter pursuant to 49 C.F.R. §§ 386.16(b)(3) and 386.36.

WHEREFORE, the Field Administrator gives notice of his objection to Respondent's request for formal hearing.

Respectfully Submitted,  
Attorneys for the Claimant

Date: July 6, 2009

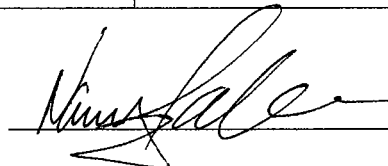
By: 

Nancy Jackson  
Office of Chief Counsel  
Federal Motor Carrier Safety Administration  
12600 West Colfax Avenue, Suite B-300  
Lakewood, Colorado 80215  
303-407-2363  
303-407-2339 (Fax)

# CERTIFICATE OF SERVICE

This is to certify that on the 6<sup>th</sup> day of July 2009, the undersigned served, as specified, the designated number of copies of the foregoing document to each of the parties listed below:

US DOT Dockets Docket Operations U.S. Department of Transportation 1200 New Jersey, SE West Building, Ground Floor, Room W12-140 Washington, DC 20590-0001	One Copy FedEx Express FedEx # 7967 4935 4335
Eddie A. Roman Representative for Respondent Alyeska Transportation Management, Inc. 4724 Berkshire Road Marianna, Florida 32446	One Copy U.S. Mail – First Class
Steve Farbman Adjudications Counsel Federal Motor Carrier Safety Administration 1200 New Jersey, SE West Building, Sixth Floor, MC-CCA Washington, DC 20590-0001	One Copy FedEx Express FedEx # 7977 3637 3370
Terry D. Wolf Division Administrator California Division Federal Motor Carrier Safety Administration 1325 J Street, Suite 1540 Sacramento, CA 95814	One Copy Internal Mail
Nancy Jackson Office of Chief Counsel Federal Motor Carrier Safety Administration Western Service Center 12600 West Colfax Avenue, Suite B-300 Lakewood, CO 80215	One Copy Internal Mail
William R. Paden Field Administrator Federal Motor Carrier Safety Administration 12600 West Colfax Avenue, Suite B-300 Lakewood, CO 80215	One Copy Internal Mail



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## **Attachment A**

FMCSA-2009-0181

In the Matter of Abaco Moving & Storage Corp. dba Lonestar Relocation Services  
Field Administrator's Notice of Objection to Respondent's Request for Hearing



U.S. Department  
of Transportation

Federal Motor Carrier  
Safety Administration  
Western Service Center

Golden Hills Office Centre  
12600 W. Colfax Ave. Suite B-300  
Lakewood, CO 80215

Phone: (303) 407-2350  
Fax: (303) 407-2339

**Federal Express**

Certified Receipt Number: 7965 0726 3151

April 9, 2009

Baruch Edry, President  
Abaco Moving & Storage Corp  
dba Lonestar Relocation Services  
6917 Owensmouth Ave  
Canoga Park, CA 91303

**NOTICE OF CLAIM<sup>1</sup> -- Violations of 49 CFR § 375.207(a).**

**CIVIL PENALTY: \$2,000**

**Case Number: CA-2009-0480-US1164**

**US DOT Number: 1588288**

Dear Mr. Edry:

A compliance review was conducted at Canoga Park, CA on April 1, 2009. The purpose of this review was to determine your compliance with the Federal Motor Carrier Safety Regulations (FMCSR), the Federal Hazardous Materials Regulations (HMR), and the Federal Motor Carrier Commercial Regulations (FMCCR).

As a result of this review, violations were discovered. This letter constitutes a Notice of Claim by the United States Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) against Lonestar Relocation Services for the amount of \$2,000.

Unless settled or otherwise resolved in a manner set forth below, the FMCSA can recover these penalties, with interest and costs, in a civil action brought in a United States District Court. Additional collection efforts may include, but are not limited to: Internal Revenue Service offsets against tax refunds, and the referral to and the use of collection agencies to collect penalties. Also, under 49 Code of Federal Regulations (CFR) §§ 386.83 and 386.84, once a final order has been issued, the FMCSA may prohibit Lonestar Relocation Services from operating in interstate commerce until the civil penalty is paid in full and, if applicable, your FMCSA registration will be suspended.

## SUMMARY OF VIOLATIONS

our company is charged with:

1. One (1) violation of 49 CFR § 375.207(a)- Providing false, misleading, or deceptive information in advertisements.

A copy of the documentary evidence collected during the investigation is available from this office. Upon request, the FMCSA will forward a copy of this evidence within a reasonable period of time. For additional details see the attached "Statement of Charges."

## NOTICE OF ABATEMENT

This letter also constitutes a Notice of Abatement of all violations. In order to ensure that these violations cease, your company must take the following actions:

1. Ensure that you and your agents publish advertisements that contain truthful, straightforward and honest advertisements. Your advertisements must include the information required in Part 375.207.

### Failure to Abate Cited Violations

Failure to abate the cited violations could cause penalties to be increased in future enforcement actions.

## PENALTY

### Penalty Factors for Violations of Safety and Hazardous Materials Regulations

In accordance with 49 USC §§ 521(b)(2)(D) and 5123(c), the FMCSA must, before proposing or claiming a civil penalty, take into consideration the nature, circumstances, extent, and gravity of the violation committed and with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. The civil penalty proposed shall be calculated to induce compliance. These factors will not be considered, however, for violations subject to the Section 222 provision described above.

### Penalty Factors for Violations of Commercial Regulations

In the case of violations of the commercial regulations FMCSA also is not required by statute to consider the Section 521 factors. However, before proposing penalties for violations of the commercial regulations (more specifically the transportation of household goods), 49 U.S.C. § 14901 (c) requires FMCSA to take into consideration the degree of culpability, any prior history of such conduct, the degree of harm to shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the civil penalty proceeding, and such other matters as fairness may require.

### Discovered Versus Charged Violations



Violations of either safety or hazardous materials regulations discovered during the course of the compliance review, but not proposed for penalty in this Notice of Claim, may have increased the civil penalty claimed for the violations charged in this Notice of Claim. The violations found in Table 1, as attached to this Notice of Claim, detail the violations discovered during our review/inspection.

Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA)

A pattern of and/or repeated violations of the same or related acute or critical regulations will result in the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during an investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period. Any violations with a checkmark in the "§ 222 Applied" column in the penalty table below are subject to the "Section 222" provision and maximum penalties have been assessed pursuant to statute. See 49 USC § 521 note, 49 USC § 521(b), 49 USC § 5123, 49 USC Chapter 149, and 49 CFR Part 386, Appendix A.

A listing of the statutes governing maximum and minimum penalties for violations of specific regulations is enclosed.

Given the statutorily mandated items listed above, the FMCSA is proposing a civil penalty as follows:

<u>VIOLATION</u>	<u>TYPE OF VIOLATION<sup>2</sup></u>	<u>NUMBER OF COUNTS</u>	<u>ASSESSMENT PER COUNT</u>	<u>§222 APPLIED</u>	<u>TOTAL</u>
375.207(a)	COM	1	\$2,000.00		\$2,000.00

Accordingly, the total amount assessed by the Federal Government as the result of these violations is \$2,000.

**HOW TO REPLY TO THE NOTICE OF CLAIM**

Under 49 CFR Part 386, "Rules of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings," you have specific rights with respect to this Notice of Claim. You are advised to carefully read Part 386 and follow the course of action appropriate for you in this case. A copy of Part 386 is attached to this Notice of Claim for your information. You may wish to seek legal counsel for answers to any questions in reference to this Notice of Claim or procedures under Part 386. DO NOT call the FMCSA Service Center or the Chief Counsel's office for advice or assistance in your defense. You may pursue the following courses of action:

(1) PAYMENT OF PENALTY: Within 30 days of service of this Notice of Claim: (a) Pay the assessed penalty in full, or (b) Establish a monthly payment plan by contacting an Enforcement Specialist (NOTE: A payment plan may be available for respondents who demonstrate financial

2) CDL=Commercial Driver's License; FR=Financial Responsibility; HM=Hazardous Materials (the total penalty assessed is per citation, not per number of counts); NO=Notice and Orders; NR=Nonrecordkeeping; R=Recordkeeping; COM=Commerical Regulations.

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ficulty), or (c) Contact an Enforcement Specialist outlining in writing compelling reasons why the assessed penalty should be reduced and discuss potential settlement. You may be required to submit a rrent, certified balance sheet or other evidence of assets and liabilities. An Enforcement Specialist n be reached at (303) 407-2350. If you pay the full penalty within thirty (30) days of service of this otice of Claim, you do not need to file a written Reply to the Notice of Claim.

You may pay the fine electronically through our SAFER website at <<http://safer.fmcsa.dot.gov>> by electing "Online Fine Payment."

Alternatively, you may pay by cashier's check, certified check, or money order made payable to the FMCSA and mailed to:

United States Department of Transportation  
Federal Motor Carrier Safety Administration  
Western Service Center  
Golden Hills Office Centre  
12600 W. Colfax Ave. Suite B-300  
Lakewood, CO 80215

Personal or company checks will not be accepted and will be returned.

**Payment of the penalty will constitute admission of the violation(s) set forth in the Notice Claim and these violations shall constitute prior offenses under either 49 USC § 521(b)(2)(D) (for violations of the Federal Motor Carrier Safety Regulations), 49 USC § 14901(c) (for violations of the Federal Motor Carrier Commercial Regulations involving transportation of household goods) or 49 USC § 5123(c) (for violations of the Hazardous Materials Regulations) unless you proceed under the provisions of 49 C.F.R. § 386.18(c). These offenses may lead to higher penalties in future enforcement actions and adverse future SafeStat rankings.**

(2) **REQUEST FOR ADMINISTRATIVE ADJUDICATION:** You may contest the claim and request Administrative adjudication. If you choose this course of action, you must carefully follow the provisions within 49 CFR § 386.14, including filing a written Reply within thirty (30) days after service of this Notice of Claim.

Your Reply must be in writing, and clearly state the grounds for contesting the Notice of Claim, and must state any affirmative defenses you intend to assert. You must separately admit or deny each violation alleged in this Notice of Claim. Any allegations in the Notice of Claim not specifically denied in the Reply will be deemed admitted. A general denial of the claim is insufficient and may result in a default being entered by the Assistant Administrator. Your Reply must include a statement selecting one of the options for administrative adjudication available under 49 CFR § 386.14(d)(1)(iii). Once you select an adjudication option, you are bound by that selection.

You must serve your reply on all persons listed in the Certificate of Service attached to this Notice of Claim and in accordance with the requirements of 49 CFR § 386.6.

(3) **REQUEST FOR BINDING ARBITRATION:** If you dispute **only** the amount of the civil penalty and/or the length of time to pay, you can select to have the civil penalty amount adjudicated through FMCSA's binding arbitration program. You should notify the FMCSA of your request in writing when you submit your Reply. The Assistant Administrator will determine if your case is appropriate for binding arbitration. You will be notified in writing of the Assistant Administrator's decision

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regarding your request. You may choose binding arbitration if the only issues that you dispute are the amount of the civil penalty and/or the length of time to pay. FMCSA's guidance on the use of binding arbitration is available through the following link: <http://www.fmcsa.dot.gov/>. You can also request a copy of the guidelines from the Service Center.

YOU MUST CERTIFY THAT YOUR REPLY HAS BEEN SERVED IN ACCORDANCE WITH THE REQUIREMENTS CONTAINED WITHIN 49 CFR § 386.6.

THE SPECIFIC RIGHTS PROVIDED FOR IN 49 CFR § 386.14 MAY BE WAIVED IF YOU FAIL TO SUBMIT A WRITTEN REPLY WITHIN THIRTY (30) DAYS AFTER THE SERVICE OF THIS NOTICE OF CLAIM.

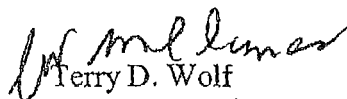
FAILURE TO REPLY TO THE NOTICE OF CLAIM IN THE EXACT MANNER SPECIFIED IN 49 CFR § 386.14 MAY BE TREATED AS IF NO REPLY HAS BEEN FILED. UNDER 49 CFR § 386.14(c), A FAILURE TO REPLY MAY CAUSE THE FMCSA TO ISSUE A NOTICE OF DEFAULT AND FINAL AGENCY ORDER THIRTY (30) DAYS AFTER THIS NOTICE OF CLAIM IS SERVED. THE NOTICE OF DEFAULT AND FINAL AGENCY ORDER WILL DECLARE YOU TO BE IN DEFAULT AND DECLARE THE NOTICE OF CLAIM, INCLUDING THE CIVIL PENALTY PROPOSED IN THE NOTICE OF CLAIM, TO BE THE FINAL AGENCY ORDER IN THE PROCEEDINGS. THE FINAL AGENCY ORDER WILL BECOME EFFECTIVE FIVE (5) DAYS AFTER THE NOTICE OF DEFAULT AND FINAL AGENCY ORDER IS SERVED. THE DEFAULT WILL CONSTITUTE AN ADMISSION OF ALL FACTS ALLEGED IN THE NOTICE OF CLAIM AND A WAIVER OF YOUR OPPORTUNITY TO CONTEST THE CLAIM.

A GENERAL DENIAL DOES NOT MEET THE REQUIREMENTS OF 49 CFR § 386.14(d)(1). UNLESS YOUR REPLY COMPLIES WITH THE REQUIREMENTS OF 49 CFR § 386.14(d)(1), THE ASSISTANT ADMINISTRATOR MAY ENTER A DEFAULT AGAINST YOU.

IF YOU DO NOT UNDERSTAND OR ARE CONFUSED ABOUT YOUR RIGHTS AND OBLIGATIONS AS OUTLINED WITHIN THIS NOTICE OF CLAIM, YOU MAY WISH TO SEEK LEGAL ADVICE.

Copies of the procedural regulations, applicable statutes and the Service List are enclosed.

Sincerely,



Terry D. Wolf  
Division Administrator  
Federal Motor Carrier Safety Administration

Enclosures

## APPLICABLE STATUTES

Section 14901 (a)(1), (2) and (3) of 49 USC provide that a person who fails to make a report, to specifically, completely, and truthfully answer a question, or to make, prepare, or preserve a record in form and manner prescribed is liable for a minimum penalty of \$650 per violation 72 Fed. Reg. 55102; September 28, 2007).

Section 14901 (a)(4) of 49 USC provides that a person who operates as a carrier or broker for the transportation of property in violation of the registration requirements of 49 USC 13901 is liable for a minimum penalty of \$650 per violation 72 Fed. Reg. 55102; September 28, 2007).

Section 14901 (a) of 49 USC provides that a person who operates as a motor carrier of passengers in violation of the registration requirement of 49 USC 13901 is liable for a minimum penalty of \$2,200 per violation (68 Fed. Reg. 15381 (March 31, 2003)).

Section 14901 (a)(5) of 49 USC provides that a person who operates as a foreign motor carrier or foreign motor private carrier in violation of the provisions of 49 USC 13902 (c) is liable for a minimum penalty of \$650 per violation 72 Fed. Reg. 55102; September 28, 2007).

Section 219 of the Motor Carrier Safety Improvement Act of 1999 provides that a person who operates as a foreign motor carrier or foreign motor private carrier without authority, before the implementation of the land transportation provisions of the North American Free Trade Agreement, outside the boundaries of a commercial zone along the United States-Mexico border is liable for a maximum penalty of \$11,000 for an intentional violation and a maximum penalty of \$32,500 for a pattern of intentional violations 72 Fed. Reg. 55102; September 28, 2007).

Section 14901 (b) of 49 USC provides that a person who operates as a motor carrier or broker for the transportation of hazardous wastes in violation of the registration provisions of 49 USC 13901 is liable for a maximum penalty of \$22,000 per violation (68 Fed. Reg. 15381 (March 31, 2003)).

Section 14901 (d) of 49 USC provides that a motor carrier or freight forwarder of household goods, or their receiver or trustee, that does not comply with any regulation relating to the protection of individual shippers is liable for a minimum penalty of \$1,100 per violation (68 Fed. Reg. 15381 (March 31, 2003)).

Section 14901(d)(2) of 49 USC provides that if a broker for transportation of household goods makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods, the broker is liable to the United States for a civil penalty of not less than \$10,000 for each violation. (49 USC § 14901(d)(2); August 10, 2005).

Section 14901(d)(3) of 49 USC provides that a person who operates as a motor carrier or broker for the transportation of household goods in violation of the registration requirements of 49 USC Chapter 139 is liable to the United States for a civil penalty of not less than \$25,000 for each violation (49 USC § 14901(d)(3); August 10, 2005).

Section 14901(e) of 49 USC provides that a person-

(i) Who falsifies, or authorizes an agent or other person to falsify, documents used in the transportation of household goods by motor carrier or freight forwarder to evidence the weight of a shipment or

which are not performed or are not reasonably necessary in the safe

## APPLICABLE STATUTES

and adequate movement of the shipment is liable for a minimum penalty of \$2,200 for the first violation and \$6,500 for each subsequent violation 72 Fed. Reg. 55102; September 28, 2007).

Section 14903 (a) of 49 USC provides that a person that offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 at a rate different than the rate in effect under section 13702 is liable to the United States for civil penalty of not more than \$120,000 for each violation 72 Fed. Reg. 55102; September 28, 2007).

Section 14903 (b) of 49 USC provides that a carrier providing transportation or service subject to jurisdiction under chapter 135 or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702, shall be fined under title 18 or imprisoned not more than 2 years, or both.

Section 14905 of 49 USC provides that a person who knowingly authorizes, consents to, or permits a violation of 49 USC 14103 relating to loading and unloading motor vehicles or who knowingly violates subsection (a) of 49 USC 14103 is liable for a penalty of not more than \$11,000 per violation (68 Fed. Reg. 15381 (March 31, 2003)).

Section 14906 of 49 USC provides that a person, or an officer, employee, or agent of that person, who tries to evade regulations under Part B of Subtitle IV, Title 49, USC, for carriers or brokers is liable for a penalty of \$220 for the first violation and at least \$275 for a subsequent violation (68 Fed. Reg. 15381 (March 31, 2003)).

Section 14907 of 49 USC provides that a person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under Part B of Subtitle IV, Title 49, USC, or an officer, agent, or employee of that person, is liable for a maximum penalty of \$10,000 per violation if it does not make the report, does not completely and truthfully answer the question within 30 days from the date the Secretary requires the answer, does not make or preserve the record in the form and manner prescribed, falsifies, destroys, or changes the report or record, files a false report or record, makes a false or incomplete entry in the record about a business related fact, or prepares or preserves a record in violation of a regulation or order of the Secretary 72 Fed. Reg. 55102; September 28, 2007).

Section 14908 of 49 USC provides that a motor carrier, water carrier, freight forwarder, or broker, or their officer, receiver, trustee, lessee, employee, or other person authorized to receive information from them, who discloses information identified in that section without the permission of the shipper or consignee is liable for a maximum penalty of \$2,200 (68 Fed. Reg. 15381 (March 31, 2003)).

Section 14910 of 49 USC provides that a person who violates a provision of Part B, Subtitle IV, Title 49, USC, or a regulation or order under Part B, or who violates a condition of registration related to transportation that is subject to jurisdiction under subchapter I or III or Chapter 135, or who violates a condition of registration of a foreign motor carrier or foreign motor private carrier under section 13902, is liable for a penalty of \$650 for each violation if another penalty is not provided in 49 USC 55102; September 28, 2007).

## STATEMENT OF CHARGES

Violation 1 --- 49 CFR 375.207(a) - Providing false, misleading, or deceptive information in advertisements.

### CHARGE #1:

On or about 02/16/2009, Lonestar Relocation Services published an advertisement in/on carrier's websites [www.abacomoving.com](http://www.abacomoving.com) and [www.lnsrs.com](http://www.lnsrs.com). Lonestar Relocation Services failed to include truthful, straightforward and honest information in the subject advertisement.

## SERVICE LIST

This is to certify that on April 9, 2009, the undersigned sent, by the method indicated, the designated number of copies of the Notice of Claim to each of the parties listed below.

Each party listed below must receive the designated number of copies of each filing made in this proceeding in the future.

Baruch Edry, President  
Abaco Moving & Storage Corp  
dba Lonestar Relocation Services  
6917 Owensmouth Ave  
Canoga Park, CA 91303

Original  
Federal Express

Terry D. Wolf, Division Administrator  
U.S. Department of Transportation  
Federal Motor Carrier Safety Administration  
1325 J Street, Suite 1540  
Sacramento, CA 95814

One Copy  
Internal Mail

U.S. Department of Transportation  
Federal Motor Carrier Safety Administration

One Copy  
Internal Mail

Western Service Center  
Golden Hills Office Centre  
12600 W. Colfax Ave. Suite B-300  
Lakewood, CO 80215

## **Attachment B**

FMCSA-2009-0181

In the Matter of Abaco Moving & Storage Corp. dba Lonestar Relocation Services  
Field Administrator's Notice of Objection to Respondent's Request for Hearing



**US DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
WESTERN SERVICE CENTER**

Agency

V

**CASE NO: CA-2009-0480-US1164**

**BARUCH EDRY, PRESIDENT  
ABACO MOVING & STORAGE CORP  
dba LONESTAR RELOCATION SERVICES  
Respondent**

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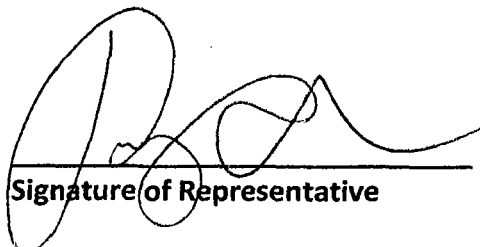
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**NOTICE OF APPEARANCE**

Notice is hereby given of the entry of the undersigned as representative for **BARUCH EDRY, PRESIDENT of ABACO MOVING & STORAGE CORP dba as LONESTAR RELOCATION SERVICES** in the above-entitled action. Pursuant to 49 CFR Part 386.6(a), all further notice and copies of pleadings, papers, and other material relevant to this action should be directed to and served upon:

**EDDIE A ROMAN  
Alyeska Transportation Management Services Inc  
4425 Market Street  
Marianna, Florida 32446  
(850) 482-0100  
Fax (850) 201-6979**

You are also hereby advised that pursuant to **18 U.S.C. Sec. 2511(2)(d)** and **F.S. Chapter 934.03**. That all incoming and outgoing telephone conversations regarding the above mentioned matters may be monitored and/or recorded.



**Signature of Representative**

**May 8, 2009**

## CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on May 08, 2009 the undersigned sent, by the method indicated, the designated number of copies of the **Notice of Appearance** to each and all parties listed below.

Each party listed below must receive the designated numbers of copies of each filing made in this proceeding in the future.

Department of Transportation  
Docket Management Facility  
1200 New Jersey Ave SE  
Washington DC 20590-0001

One Copy  
Federal Express

US Department of Transportation  
Golden Hills Office Centre  
12600 W. Colfax Ave Suite B-300  
Lakewood, CO 80215

One Copy  
First Class Mail

Terry D. Wolf Division Administrator  
US Department of Transportation  
Federal Motor Carrier Safety Administration  
1325 J Street Suite 1540  
Sacramento CA 95814

One Copy  
First Class Mail

Baruch Edry, President  
ABACO MOVING & STORAGE  
Dba LONESTAR RELOCATION SERVICES  
6917 Owenmouth Ave  
Canoga Park CA 91303

One Copy  
First Class Mail

Eddie A Roman, Representative for the Respondent  
Alyeska Transportation Management Services Inc  
4425 Market Street  
Marianna FL 32446

One Copy  
Internal Mail



**EDDIE A. ROMAN**  
4425 Market Street  
Marianna, Florida 32446  
(850) 482-0100  
Representative for the Respondent

**Attachment C**

FMCSA-2009-0181  
In the Matter of Abaco Moving & Storage Corp. dba Lonestar Relocation Services  
Field Administrator's Notice of Objection to Respondent's Request for Hearing

**US DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
WESTERN SERVICE CENTER**

Agency

V

**CASE NO: CA-2009-0480-US1164**

**BARUCH EDRY, PRESIDENT  
ABACO MOVING & STORAGE CORP  
DBA LONESTAR RELOCATION SERVICES**  
Respondent

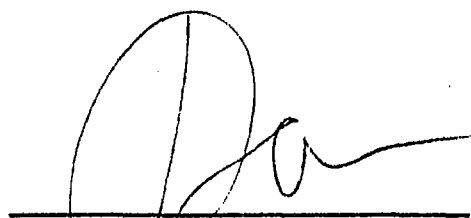
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**EVIDENTIARY REQUEST**

COMES NOW, the respondent **BARUCH EDRY, PRESIDENT ABACO MOVING & STORAGE CORP DBA LONESTAR RELOCATION SERVICES**, by and through undersigned representative, and hereby files an Evidentiary Request we are requesting all Evidence in the above mentioned case including Part C of the compliance review in relation to this case. Please send all documentation to our address:

Alyeska Transportation Management Services Inc  
ATTN: Eddie A Roman  
4425 Market Street  
Marianna FL 32446



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**EDDIE A. ROMAN**  
4425 Market Street  
Marianna, Florida 32446  
(850) 482-0100  
Representative for the Respondent

## **Attachment D**

FMCSA-2009-0181

In the Matter of Abaco Moving & Storage Corp. dba Lonestar Relocation Services  
Field Administrator's Notice of Objection to Respondent's Request for Hearing



U.S. Department  
of Transportation

Federal Motor Carrier  
Safety Administration

Western Service Center

Golden Hills Office Centre  
12600 W. Colfax Ave., Suite B-300  
Lakewood, CO 80215

Phone: (303) 407-2350  
Fax: (303) 407-2339

May 18, 2009

Alyeska Transportation Management Services Inc  
Attn: Eddie A Roman  
P.O. Box 854  
Marianna, FL 32447-0854

Re: Evidentiary Request for Abaco Moving & Storage Corp,  
dba Lonestar Relocation Services.  
Case # CA-2009-0480-US1164  
DOT # 1588288

Dear Eddie A Roman:

Your request for copies of documentation was received by the Western Service Center on May 07, 2009. Enclosed please find copies of the evidence collected during the investigation and currently maintained by the Federal Motor Carrier Safety Administration, Western Service Center in Case # CA-2009-0480-US1164 regarding Abaco Moving & Storage Corp, dba Lonestar Relocation Services.

Sincerely,

William R. Paden  
Field Administrator

CC: Earuch Edry, President (USPS) without enclosure  
Abaco Moving & Storage Corp  
dba Lonestar Relocation Services  
6917 Owensmouth Ave  
Canoga Park, CA 91303

## **Attachment E**

FMCSA-2009-0181

In the Matter of Abaco Moving & Storage Corp. dba Lonestar Relocation Services  
Field Administrator's Notice of Objection to Respondent's Request for Hearing

US DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
WESTERN SERVICE CENTER

Agency

RECEIVED

FMCSA  
LAKEWOOD, CO

V

CASE NO: CA-2009-0480-US1164

BARUCH, EDRY PRESIDENT  
ABACO MOVING & STORAGE CORP  
dba LONESTAR RELOCATION SERVICES  
Respondent

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**REPLY TO THE NOTICE OF CLAIM**

COMES NOW, the respondent **BARUCH, EDRY PRESIDENT ABACO MOVING & STORAGE CORP dba LONESTAR RELOCATION SERVICES**, by and through undersigned representative, and hereby files his reply to the notice of claim as follows:

1. **DENIED-Violation 1, Charge #1—49 CFR 375.207(A)- PROVIDING FALSE, MISLEADING, OR DECEPTIVE INFORMATION IN ADVERTISEMENTS.**

**AFFIRMATIVE DEFENSES**

After having denied the violation, the Respondent would state the following Affirmative Defenses:

- Respondent did not commit the violation. The respondent does not subcontract to other carriers, but like major van lines the respondent use agents to complete their jobs. The agents operate under the respondent name and US DOT number. This process does not constitute subcontracting.
  - The respondent does have their own storage facilities
  - The respondent either use their own or leased equipment that is under the carrier control. The fact that the carrier leased, rent or own the equipment is irrelevant as long as the equipment is in the carrier control.
1. As per 49 CFR Part 386.14(b) the respondent is hereby contesting the claim by requesting administrative adjudication pursuant to 49 CFR Part 386.14(d)
    - a. The respondent is requesting a formal hearing as per 49 CFR Part 386.14(d)(iii)(C)



Alyeska Transportation Management Inc



**EDDIE A. ROMAN**

4425 Market Street  
Marianna, Florida 32446  
(850) 482-0100

Representative for the Respondent

## CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on May, 06 2008, the undersigned sent, by the method indicated, the designated number of copies of the REPLY TO THE NOTICE OF CLAIM to each and all parties listed below.

Each party listed below must receive the designated numbers of copies of each filing made in this proceeding in the future.

Department of Transportation  
Docket Management Facility  
1200 New Jersey Ave SE  
Washington DC 20590-0001

One Original  
One Copy  
Federal Express

US Department of Transportation  
Golden Hills Office Centre  
12600 W. Colfax Ave Suite B-300  
Lakewood, CO 80215

One Copy  
Certified US Mail

Terry D. Wolf Division Administrator  
US Department of Transportation  
Federal Motor Carrier Safety Administration  
1325 J Street Suite 1540  
Sacramento CA 95814

One Copy  
First Class mail

Baruch Edry, President  
Abaco Moving & Storage Corp  
Db a Lonestar Relocation Services  
6917 Owensmouth Ave  
Canoga Park, CA 91303

One Copy  
First Class Mail

Eddie A Roman, Representative for the Respondent  
Alyeska Transportation Management Services Inc  
4425 Market Street  
Marianna FL 32446

One Copy  
Internal Mail

  
**EDDIE A. ROMAN**

4724 Berkshire Road  
Marianna, Florida 32446  
(850) 482-0100

Representative for the Respondent